

## REMARKS

Claims 31-34, 43, and 46-73 are pending in this application.

Claims 31, 34, 46, 57, and 73 are currently amended.

Claims 31, 34, 46, and 57 are amended to provide greater clarity and do not add any new matter.

Claims 31-34, 43, and 46-73 are presented for reconsideration.

### **Claim Rejections – 35 USC 112 Second Paragraph**

Claim 73 is rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regards as the invention.

Claim 73 is currently amended to properly depend from claim 46.

Additionally, claim 73 is rejected because it recites “formula (1)” which does not exist.

Complexes of formula (1') correspond to those of formula (1) wherein there are no quarternized nitrogen atoms present. The Examiner is directed to page 24 second paragraph line 6 and page 24 third paragraph of the specification for support.

No new matter has been added.

The present 35 USC 112 second paragraph rejections are addressed and are overcome.

### **Claim Rejections – 35 USC 102(e)**

Claims 31-34, 43, and 46-73 are rejected under 35 USC 102(e) as being anticipated by WO 02/088289.

WO 02/088289 has an international filing date of April 25, 2002 and an international publication date of November 7, 2002. The present application has a priority date of July 11, 2002. Thus, WO 02/088289 does not qualify as prior art under 35 USC 102(a) or 35 USC 102(b). The Examiner is correct in that WO 02/088289 does qualify as prior art under 35 USC 102(e).

The present application pertains to metal complexes that contain certain terpyridine ligands having a quaternized atom which is not directly bonded to one of the three pyridine rings while WO 02/088289 pertains to metal complexes containing terpyridine ligands. The Examiner is directed to Instant Examples 7 & 14. When the Instant Examples are compared with WO 02/088289 Example 37 on page 46 and Application Example 1 found in the paragraph bridging pages 49 and 50, a clear line of demarcation exists between the present application and WO 02/088289. Therefore, the present application is not anticipated by WO 02/088289.

The present 35 USC 102(e) rejections are addressed and are overcome.

#### **Provisional Claim Rejections – Double Patenting**

Claims 31-34, 43, and 46-73 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4-21, and 23-34 of copending Application No. 10/531,906; claims 1-29 of Application No. 10/531,907; and claims 1-27 of Application No. 10/476,043.

The present application pertains to metal complexes that contain terpyridine ligands having a quaternized atom which is not directly bonded to one of the three pyridine rings while Application No. 10/531,906 pertains to metal complexes containing bis-pyridyl-pyrimidine or bis-pyridyl-triazine ligands. The present application and Application No. 10/531,906 pertain to completely different ring systems and, therefore, are not derivable from each other.

The present application pertains to metal complexes that contain terpyridine ligands having a quaternized atom which is not directly bonded to one of the three pyridine rings while Application No. 10/531,907 pertains to a method of carrying out oxidation reactions with certain metal complexes containing terpyridine ligands and molecular oxygen and/or air. The present application and Application No. 10/531,907 pertain to completely different ring systems and, therefore, are not derivable from each other.

The present application pertains to metal complexes that contain terpyridine ligands having a quaternized atom which is not directly bonded to one of the three pyridine rings while Application No. 10/476,043 pertains to metal complexes containing terpyridine ligands with no such proviso. Therefore, there is a clear line of demarcation between the present application and Application No. 10/476,043.

The present provisional obviousness-type double patenting rejections are addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,

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